

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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-PS-O-

DAVID RIVERA,

Plaintiff,

-v-

08-CV-0157M

**ORDER**

Dr. Lester N. Wright, Chief Medical Officer,  
New York State Department of Correctional Services,  
Nurse L. Miller, Sing Sing Correctional Facility,  
Nurse Osorio, Sing Sing Correctional Facility,  
Nurse Elaine Dunning, Great Meadow Correctional Facility,  
Nurse A. Pauldin, Great Meadow Correctional Facility Doctor,  
Dr. John Doe, #1, Elmira Correctional Facility Doctor, and  
Dr. John Doe, #2, Five Points Correctional Facility Doctor; all  
being sued in their individual and official capacity

Defendants.

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Plaintiff, who is incarcerated in the Marcy Correctional Facility, initially filed this action *pro se* action under 42 U.S.C. § 1983 in the United States District Court for the Southern District of New York, which subsequently transferred the action to this Court, pursuant to 28 U.S.C. §§ 1391(b) and 1406(a), because a substantial part of the events or omissions giving rise to plaintiff's claims allegedly occurred in correctional facilities located within the Western District of New York. (Docket No. 4, Att. 3, Order, entered Feb. 21, 2008). Plaintiff has requested permission to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a) and has both met the statutory requirements and furnished the Court with a signed Authorization. Accordingly, plaintiff's

request to proceed as a poor person is hereby granted. In addition, plaintiff's complaint has been screened by the Court with respect to the 28 U.S.C. §§ 1915(e) and 1915A criteria.

In his complaint, plaintiff lists two John Doe physicians as defendants. John Doe #1 is identified as an Elmira Facility Doctor who treated plaintiff, and John Doe #2 is identified as a Five Points Correctional Facility Doctor who treated plaintiff. Pursuant to Valentin v. Dinkins, 121 F.3d 72 (2d. Cir. 1997) (per curiam), the Court requests that the New York State Attorney General's Office, Buffalo Region Office, use its best efforts to ascertain the full names of the John Doe physicians plaintiff seeks to sue. The Attorney General's Office is also requested to provide the addresses where these John Doe defendants can currently be served. The Attorney General's Office need not undertake to defend or indemnify the John Doe physicians at this juncture. This order merely provides a means by which plaintiff may name and properly serve the John Doe defendants as instructed by the Second Circuit in Valentin.

The Attorney General's Office is hereby requested to produce the information specified above regarding the identities of the John Doe physicians by **April 11, 2008**. Once this information is provided, plaintiff's complaint shall be deemed amended to reflect the full names of the defendants, summonses shall be issued as to these defendants and the Court shall direct service on them.

IT IS HEREBY ORDERED that the Clerk of the Court is directed to file plaintiff's papers, and to cause the United States Marshal to serve copies of the Summons, Complaint, and this Order upon the named defendants without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor;

FURTHER, that the Clerk of the Court shall forward a copy of this Order to the New York State Attorney General's Office, Assistant Attorney General in Charge, Statler Towers, 4th Floor, 107 Delaware Avenue, Buffalo, New York 14202, and the Attorney General's shall produce the information specified above regarding the John Doe physicians by **April 11, 2008**; and

FURTHER, pursuant to 42 U.S.C. § 1997e(g)(2), the defendants are directed to answer the complaint.

**SO ORDERED.**

S/ Michael A. Telesca

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MICHAEL A. TELESKA  
United States District Judge

Dated: March 4, 2008  
Rochester, New York